



# CITY OF DULUTH

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

## STAFF REPORT

<b>File Number</b>	PL 14-038	<b>Contact</b>	Steven Robertson; 218 730 5295	
<b>Application Type</b>	Rezoning from R-1 to MU-C	<b>Planning Commission Date</b>	May 13, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	April 8, 2014	<b>60 Days</b>	June 7, 2014
	<b>Date Extension Letter Mailed</b>	April 22, 2014	<b>120 Days</b>	August 6, 2014
<b>Location of Subject</b>	Lots 17 - 24, Block 1, Duluth Heights			
<b>Applicant</b>	Kwik Trip, Inc.	<b>Contact</b>	715-235-6626	
<b>Agent</b>	Scott Tiegen	<b>Contact</b>	steigen@kwiktrip.com	
<b>Legal Description</b>	010-0880-00200			
<b>Site Visit Date</b>	May 5, 2014	<b>Sign Notice Date</b>	April 28, 2014	
<b>Neighbor Letter Date</b>	April 24, 2014	<b>Number of Letters Sent</b>	36	

### Proposal

The applicant is requesting that the City change the zoning of lots 17 - 24, Block 1, Duluth Heights, from R-1 to MU-C.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Central Business Secondary
<b>North</b>	MU-C	Commercial	Central Business Secondary
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	MU-C	Commercial	Central Business Secondary
<b>West</b>	R-1/MU-C	Residential/Commercial	Central Business Secondary

### Summary of Code Requirements (reference section with a brief description):

UDC Sec. 50-37.3.A: Any property owner may petition the planning commission to amend the district boundaries in which the property is located.

UDC Sec. 50-37.3.B: Planning commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

UDC Sec. 50-37.3.C: The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Central Business Secondary- An area adjacent to and supporting the primary central business area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

The 2009, Central Entrance-Miller Hill Mall Small Area Plan recommend that the future land use designation of the subject site be changed to Central Business Secondary.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

- 1) The applicant is requesting that the City change the zoning of lots 17 - 24, Block 1, Duluth Heights, from R-1 to MU-C.
- 2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or else be considered arbitrary and capricious.
- 3) Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. This application is reasonably related to the future land uses in the Comprehensive Land Use Plan.
- 4) No negative impacts to the surrounding area are anticipated.
- 5) The applicant is intending to redevelop this site into a filling station (attached is an early draft version of the site plan). Please note that this is for informational purposes only, and once the property is rezoned to MU-C, any allowed use can be developed on this site.
- 6) The MU-C purpose statement is: "The MU-C district is established to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region, as shown in Table 50-19.8. Development should facilitate pedestrian connections between residential and non-residential uses."
- 7) No City or agency comments have been received. Once citizen comment was received (attached to the staff report) in favor of the rezoning.
- 8) Upon receipt of the planning commission recommendation, the council shall make a decision to adopt, adopt with modifications, or deny the rezoning application. The applicant did not submit written consent of 2/3 of property owners within 100 feet of the property to be rezoned. The motion to approve the rezoning from R-1 to MU-C must prevail with an affirmative vote of 2/3 by the city council.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the UDC Map Amendment from R-1 to MU-C for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan.
- 2) The proposed MU-C zone district is consistent with the future land use category "Central Business Secondary".
- 3) Material adverse impacts on nearby properties are not anticipated.

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**

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## City Planning


PL 14-038 and 14-039  
9 W Palm St

### Legend

 Zoning Boundaries


#### Stream Type

 Trout Stream (GPS)


 Other Stream (GPS)


#### Right-of-Way Type

 Road or Alley ROW


 Vacated ROW

#### Easement Type


 Utility Easement

 Other Easement

#### Shoreland Overlay Zone


 Cold Water


 Natural Environment

 General Development

#### Floodplain Type

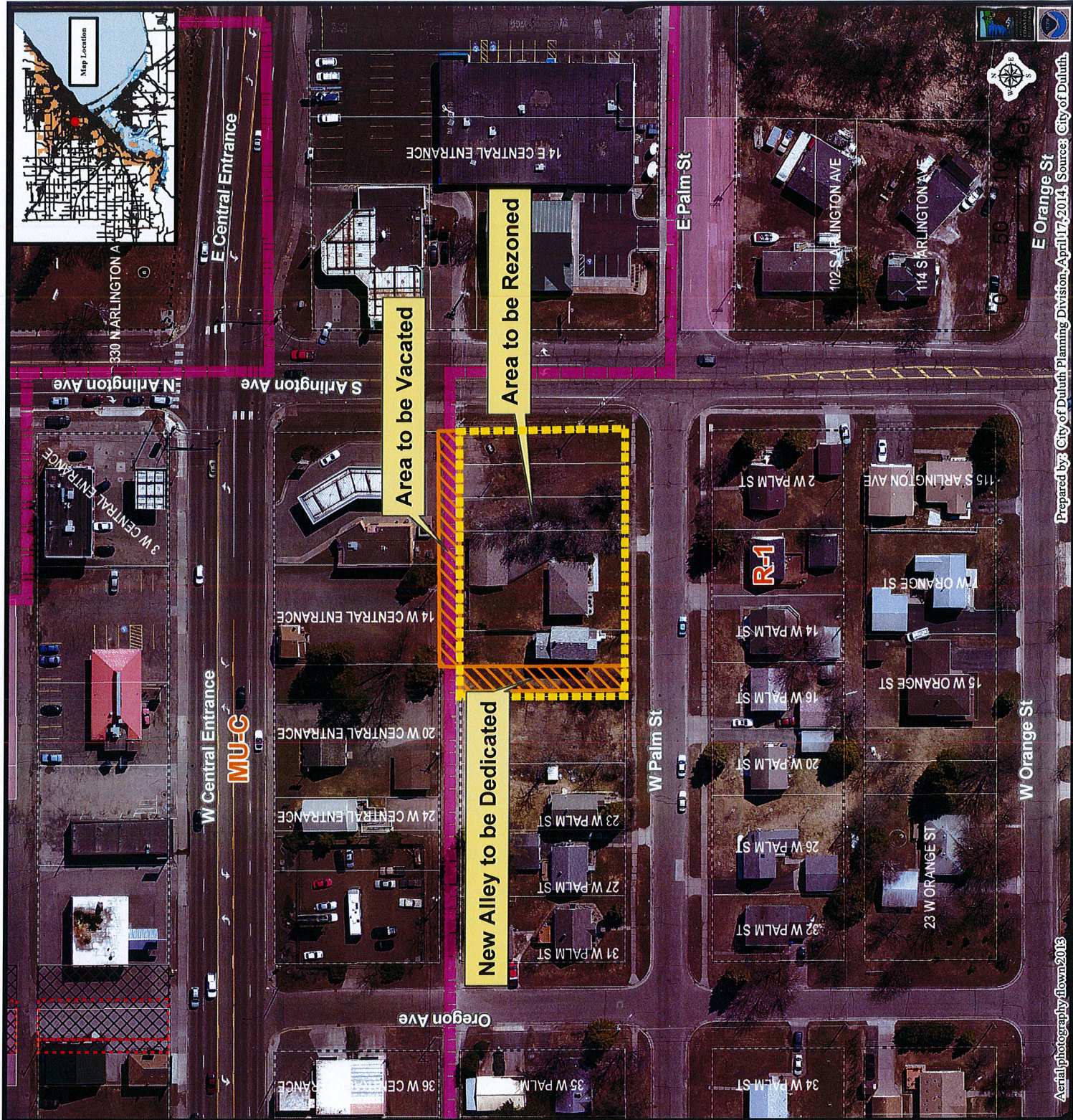
 General Flood Plain

 Flood Way

 Flood Fringe

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, April 17, 2014. Source: City of Duluth.





# City Planning

## Legend

### Zoning Boundaries

Future Land Use

Preservation

Recreation

Rural Residential

Low-density Neighborhood

Traditional Neighborhood

Urban Residential

Neighborhood Commercial

Neighborhood Mixed Use

General Mixed Use

Central Business Secondary

Central Business Primary

Auto Oriented Commercial

Large-scale Commercial

Business Park

Tourism/Entertainment District

Medical District

Institutional

Commercial Waterfront

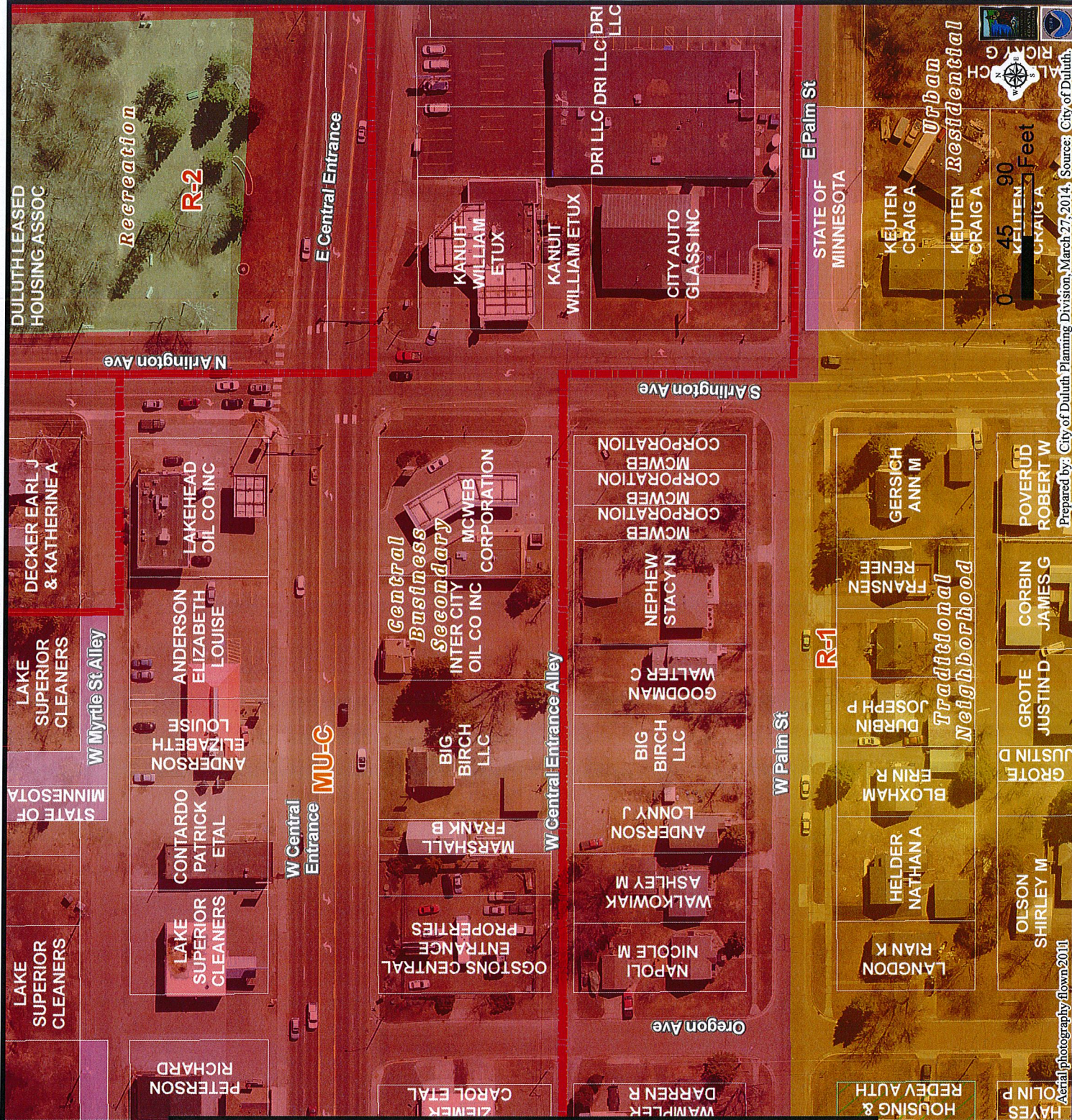
Industrial Waterfront

Light Industrial

General Industrial

Transportation and Utilities

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Aerial photography from 2011

Prepared by: City of Duluth Planning Division, March 27, 2014. Source: City of Duluth





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and approximately 150 multi-family residential units.

Central Entrance from Pecan to Anderson Road should become the “main street” for the Duluth Heights neighborhood. It should become a distinctive place rather than a collection of stand-alone businesses lining a highway. An identity for the district should be created and the businesses should be organized to further this identity and take “ownership” of Central Entrance. The Urban Land Institute in its 2001 guide “Ten Principles for Reinventing America’s Suburban Strips” recommends that such organization be a public/private partnership separate from governmental agencies, a non-profit development corporation or a business improvement district, or a combination of the two.

The MXD market study stated that the most vibrant commercial streets blur the line between inside and outside with outdoor cafes, imaginative store windows and merchandise that spills right onto the sidewalks, newsstands, food carts and other amenities that foster a spirit of excitement day and night. Small and local shops, rather than larger formats, create an eclectic and lively image for commercial streets. With each site’s redevelopment the multi-modal function and attractiveness of the business district should be reinforced. When Central Entrance is reconstructed, it is critical that the context of the street as a walkable, urban thoroughfare be respected and the design solution permit comfortable use of the street by pedestrians and transit as well as vehicles.



## Recommendations

### Future Land Use

- A. As sites in this area develop, the alleys north and south of Central Entrance should be vacated to allow development sites to extend all the way to Palm Street and Myrtle Street. [see 3-A on the Recommendations Map]
- B. Amend the Comprehensive Plan - Future Land Use Map from Auto Oriented Commercial (AOC) to Central Business Secondary (CBS) for the area east of Basswood Avenue (including the businesses just west of the Basswood Avenue/Central Entrance intersection). [see 3-B on the Recommendations Map]

### Unified Development Code

- C. Create and enforce development standards in the Unified Development Code for Central Entrance that include the following:
  - 1. Buildings should be encouraged to locate near the street through the use of minimum and maximum building setbacks.
  - 2. Buildings should be oriented to the street with a sidewalk leading from the front door to the public sidewalk.
  - 3. Parking should be limited between the street and the building entrance. Parking should be located to the side and rear of the building.
  - 4. Encourage businesses to develop shared parking agreements to reduce the amount of parking in the district.
  - 5. Buildings should be required to have a percentage of their street façade consist of windows in order to encourage pedestrian activity.



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# CITY OF DULUTH ZONING MAP AMENDMENT PETITION

File No. \_\_\_\_\_

Date \_\_\_\_\_

## Section I

We, the undersigned property owners petition to reclassify from R-1 to  
MU-C the following legally described property:  
Lots 17 - 24, Block 1, Duluth Heights, 5th Division, City of Duluth,  
Minnesota

## Section II

Attach a map of the area described above.

## Section III

We believe that this rezoning will be in the public interest because it would allow  
redevelopment for a new Kwik Trip Store, the creation of 35 new jobs and  
fits with the future land use plan.

## Section IV

**Petitioners: Owners of property requested to be rezoned (all property owners must sign)**

NAME	ADDRESS	Phone #/Fax #/Email
McWeb Corporation <i>Judy L. Weber</i>	1921 South Street Duluth, MN 55803 (Lots 17 - 19)	218-728-3641 Jweb126@aol.com
<i>Stacy N. Nephew</i> Stacy N. Nephew	9 West Palm Street Duluth, MN (Lots 20 - 22)	218-591-9421 stacynicnephew@ yahoo.com
Walter C. Goodman <i>Walter Goodman</i>	2820 W. 3rd Street Duluth, MN 55806 (Lots 23 & 24)	218-464-1793

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<u>LOTS</u>	<u>OWNER</u>	<u>PROPERTY ADDRESS</u>	<u>PID#</u>	<u>Existing Zoning</u>
13-16	1) McWeb Corporation	2 W. Central Entrance	010-0880-00140	MU-C
10-12	2) Inter City Oil Co. Inc.	14 W. Central Entrance	010-0880-00110	MU-C
17	3) McWeb Corporation	Palm St. & Arlington	010-0880-00180	R-1
18	4) McWeb Corporation	Palm St. & Arlington	010-0880-00190	R-1
19	5) McWeb Corporation	Palm St. & Arlington	010-0880-00200	R-1
20-22	6) Stacy N. Nephew	9 W. Palm Street	010-0880-00210	R-1
23-24	7) Walter C. Goodman	13 W. Palm Street	010-0880-00240	R-1

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17-19 - McWeb  
 20-22 - Nephew  
 23-24 - Goodman



**Steven Robertson**

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**From:** JOSEPH KLEIMAN <kleimanrealty@msn.com>  
**Sent:** Monday, April 28, 2014 6:19 AM  
**To:** Steven Robertson  
**Subject:** Rezoning for KwikTrip project

Steve,

As a neighboring property owner for the proposed redevelopment of the corner of Arlington Avenue and E. Central Entrance, I am totally in favor of the proposed project. Great improvement to the neighborhood. Just as importantly it will increase the tax base which is so vitally needed. Thank You.

Joe Kleiman  
218-722-9900



**Uses Allowed in Residential-Traditional (R-1) Zone District**  
**Revised March 21, 2014**

Permitted Uses

- |  |  |
|--|--|
| - Dwelling, one-family                                   | - School, elementary                     |
| - Dwelling, two-family                                   | - Agriculture, urban                     |
| - Residential care facility/assisted Living (6 or fewer) | - Day care facility, small (14 or fewer) |
| - Park, playground or forest reserve                     |  |

Special or Interim Uses

- |   |  |
|---|--|
| - Dwelling, townhouse                                   | - School, middle or high                               |
| - Manufactured Home Park                                | - Bed and breakfast                                    |
| - Co-housing facility                                   | - Preschool  |
| - Residential care facility/assisted living (7 or more) | - Day care facility, large (15 or more)                |
| - Cemetery or mausoleum                                 | - Electric power transmission line or substation       |
| - Government building or public safety facility         | - Major utility or wireless telecommunication facility |
| - Museum, library, or art gallery                       | - Water or sewer pumping stations/reservoirs           |
| - Religious assembly, small                             |  |
| - Religious assembly, large                             |  |

Interim Uses

- |                          |                                    |
|--------------------------|------------------------------------|
| - Vacation dwelling unit | - Accessory vacation dwelling unit |
|--------------------------|------------------------------------|

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## **Uses Allowed in Mixed Use-Commercial (MU-C) Zone District**

### **Revised March 21, 2014**

#### Permitted Uses



- |   |  |
|---|--|
| - Dwelling, multi family                                | - Bed and breakfast                                      |
| - Dwelling, live-work                                   | - Bank   |
| - Residential care facility/assisted living (7 or more) | - Office   |
| - Rooming house   | - Data center  |
| - Bus or rail transit station                           | - Preschool  |
| - Club or lodge (private)                               | - Day care facility, small (14 or fewer)                 |
| - Government building or public safety facility         | - Day care facility, large (15 or more)                  |
| - Museum, library or art gallery                        | - Funeral home or crematorium                            |
| - Park, playground or forest reserve                    | - Personal service and repair, small                     |
| - Religious assembly, small                             | - Personal service and repair, large                     |
| - Religious assembly, large                             | - Garden material sales                                  |
| - Business, art or vocational school                    | - Grocery store, small                                   |
| - School, elementary                                    | - Grocery store, large                                   |
| - Medical or dental clinic                              | - Retail store not listed, small                         |
| - Nursing home  | - Retail store not listed, large                         |
| - Veterinary or animal hospital                         | - Automobile and light vehicle repair and service        |
| - Convention or event center                            | - Automobile and light vehicle sales, rental, or storage |
| - Indoor entertainment facility                         | - Filing station   |
| - Restaurant (small)                                    | - Parking lot or parking structure (primary use)         |
| - Restaurant (large)                                    |  |
| - Theater   |  |
| - Hotel or motel  |  |

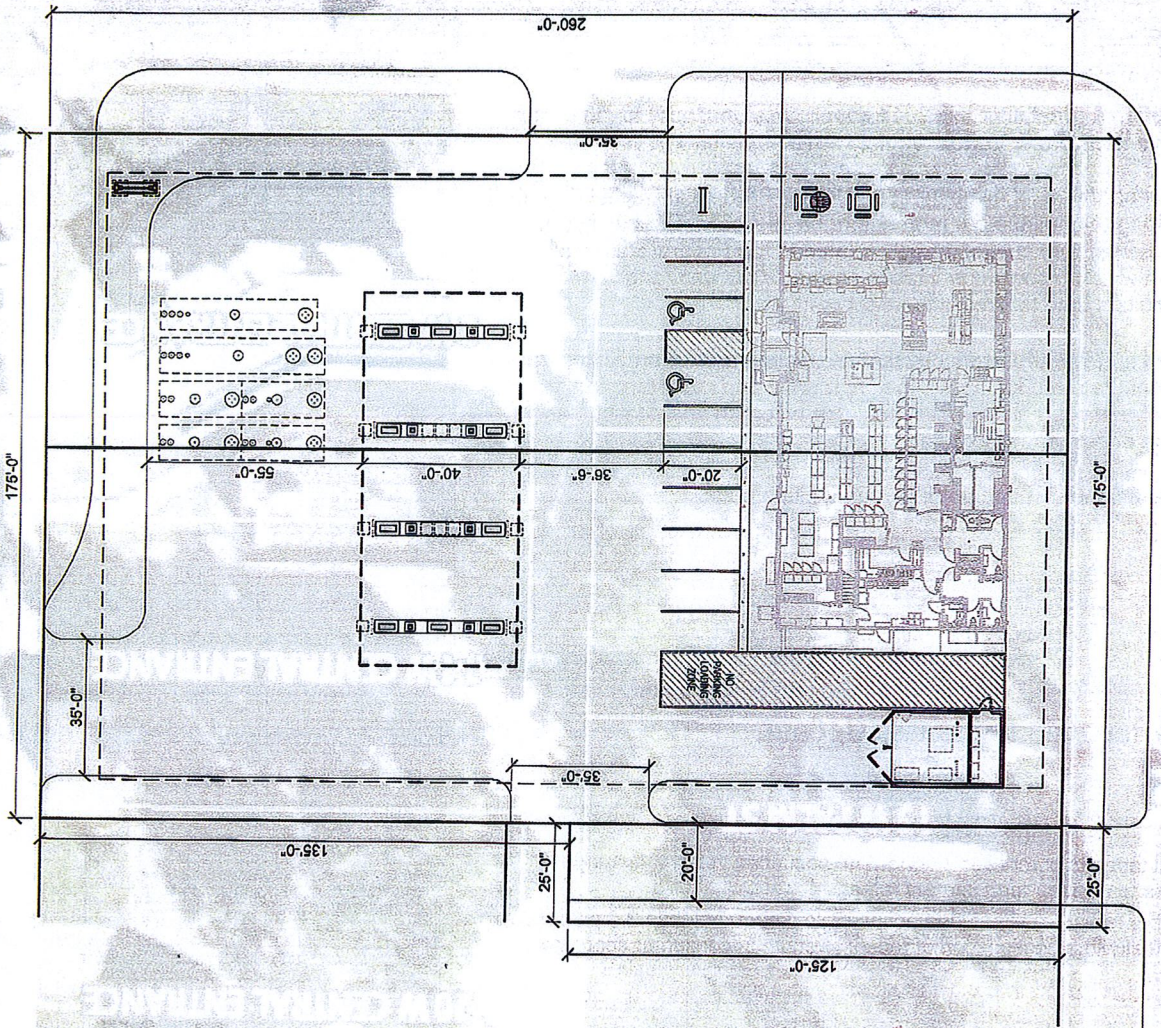
#### Special Uses

- |  |  |
|--|--|
| - Cemetery or mausoleum                                    | - Major utility or wireless telecommunication facility       |
| - School, middle or high                                   | - Solar, geothermal, or biomass power facility (primary use) |
| - Kennel   | - Recycling collection point (primary use)                   |
| - Other outdoor entertainment or recreation use not listed | - Water or sewer pumping stations/reservoirs                 |
| - Building materials sales                                 |  |
| - Electric power transmission line or substation           |  |



Draft Site Plan  
For Reference Only

 		KWIK TRIP, Inc. P.O. BOX 2107 1008 ONE STREET PHILADELPHIA, PA 19104 PH: (800) 781-4348 FAX: (800) 781-8800	DULUTH, MN CENTRAL ENTRANCE DR CONVENIENCE STORE #274	SITE PLAN CONVENIENCE STORE #274 DULUTH, MN
DATE	DESCRIPTION			
BY	DATE			
SCALE	1" = 50'			
RES. NO.	20140404			
DATE	20140404			
SHEET	SP3			



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